



Billing Code: 4333-15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2016-N212; FXES11140200000-178-FF02ENEH00]

Environmental Assessment and Habitat Conservation Plan; Heart of Texas Wind Project; McCulloch County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; draft environmental assessment, draft habitat conservation plan, and permit application.

SUMMARY: Heart of Texas Wind, LLC (applicant), has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit under the Endangered Species Act of 1973, as amended. If granted, the permit would be in effect for 30 years and would authorize incidental take of the black-capped vireo (covered species), a bird listed as endangered under the Act. The applicant has completed a draft HCP (dHCP) as part of the application package. The Service also announces the availability of a draft Environmental Assessment (dEA) that has been prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act. We are making the permit application package, including the dHCP, and dEA, available for public review and comment.

DATES: To ensure consideration, written comments must be received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE**

FEDERAL REGISTER].

ADDRESSES: *Reviewing the Draft Environmental Assessment and Draft*

Environmental Assessment: You may obtain copies of the dEA and dHCP by going to the Service's web site at <http://www.fws.gov/southwest/es/AustinTexas/>. Alternatively, you may obtain CD-ROM copies of these documents by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; by calling (512) 490-0057; or by faxing (512) 490-0974. A limited number of printed copies of the dEA and dHCP are also available, by request, from the Field Supervisor. Copies of the dEA and dHCP are also available for public inspection and review at the following locations (by appointment only at government offices):

- Department of the Interior, Natural Resources Library, 1849 C. St., NW., Washington, DC 20240.
- U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., Room 4012, Albuquerque, NM 87102.
- U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758.

Reviewing the Incidental Take Permit Application:

Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4012, Albuquerque, NM 87103.

Submitting Comments or Information:

To submit written comments, please use one of the following methods:

- *Email:* FW2_AUES_Consult@fws.gov. Please note that your request is in reference to the Heart of Texas Wind, LLC, HCP (TE-13632C).
- *Hard copy:* Send your comments via U.S. mail to Mr. Adam Zerrenner, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758–4460; or via fax to 512–490–0974. Please note that your request is in reference to the Heart of Texas Wind, LLC, HCP (TE-13632C).

FOR FURTHER INFORMATION CONTACT: Mr. Adam Zerrenner, via U.S. mail at U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; or via phone at (512) 490–0057.

SUPPLEMENTARY INFORMATION: Heart of Texas Wind, LLC (HoT, applicant), has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (ITP, TE-13632C) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; Act). The requested permit, which would be in effect for a period of 30 years, if granted, would authorize incidental take of the black-capped vireo (*Vireo atricapilla*) (BCVI, covered species), a bird species that is listed as endangered under the Act. Incidental take would be covered within 10,808 acres in McCulloch County, Texas, for construction of a wind energy facility. Covered activities include clearing for construction of turbine pads, access roads, underground medium voltage collection cables (MV collection cables), a substation, overhead high voltage transmission line, and other necessary infrastructure; installation of turbines and other infrastructure; ongoing operations and maintenance of the proposed project; and any

activities necessary to manage habitat for the covered species that could temporarily result in incidental take. The applicant has completed a draft HCP (dHCP) as part of the application package. The Service also announces the availability of a draft Environmental Assessment (dEA) that has been prepared to evaluate the permit application in accordance with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*; NEPA). We are making the permit application package, including the dHCP, and dEA available for public review and comment.

Proposed Action

The proposed action involves the issuance of an ITP by the Service for the covered activities in the permit area, pursuant to section 10(a)(1)(B) of the Act. The ITP would cover “take” of the covered species associated with construction of a wind energy facility within the permit area. The requested term of the ITP is 30 years. To meet the requirements of a section 10(a)(1)(B) ITP, the applicant developed and proposes to implement their dHCP, which describes the conservation measures the applicant has agreed to undertake to minimize and mitigate for the impacts of the proposed incidental take of the covered species to the maximum extent practicable, and ensure that incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild.

Alternatives

Two alternatives to the proposed action we are considering as part of this process are:

1. No Action Alternative. Under the No Action Alternative, HoT would not seek, and the Service would not issue, an ITP. HoT could elect either not to proceed with construction of the proposed project or to proceed with construction without an ITP or an HCP. If construction occurs, the Service assumes that HoT would construct the proposed project in a manner that complies with the Act and avoids take of BCVI. No permanent conservation of BCVI habitat would occur.
2. Preferred Alternative: Construction of the HoT wind energy facility under the HCP. This preferred alternative would involve issuance of the requested section 10(a)(1)(B) ITP contingent on the implementation of the Heart of Texas Wind Project HCP. The HCP includes the installation of up to 70 wind turbines, access roads, MV collection cables, substation, high-voltage transmission line, and other related infrastructure constructed within the project area. The covered activities will remove approximately 122.39 acres of occupied BCVI habitat within the plan area and indirectly affect an additional 602.62 acres of BCVI habitat. The applicant has proposed to allow 91.86 acres of BCVI habitat to regenerate within the plan area. The applicant has proposed to mitigate by securing up to 454.23 acres of permanently conserved BCVI habitat. The HoT HCP incorporates actions to minimize and mitigate unavoidable incidental take and includes micro-siting, seasonal clearing restrictions, post-construction habitat restoration, contractor training,

and mechanisms to adapt management strategies and respond to emergencies. Section 9 of the Act and its implementing regulations prohibit "take" of fish and wildlife species listed as threatened or endangered under section 4 of the Act. However, section 10(a) of the Act authorizes us to issue permits to take listed wildlife species where such take is incidental to, and not the purpose of, otherwise lawful activities and where the applicant meets certain statutory requirements.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Benjamin N. Tuggle,
Regional Director, Southwest Region,
Albuquerque, New Mexico.

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